



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,512	04/09/2001	Richard L. Schwartz	SMIO.0100004	6721

31625 7590 03/07/2005

BAKER BOTTS L.L.P.
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN, TX 78701-4039

EXAMINER

PHAM, THOMAS K

ART UNIT	PAPER NUMBER
----------	--------------

2121

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/829,512

Applicant(s)

SCHWARTZ ET AL.

Examiner

Thomas K Pham

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/16/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. This action is in response to request for re-consideration filed on 12/16/2004.
2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Quotations of U.S. Code Title 35

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim Rejections - 35 USC § 102

7. Claims 1-7, 11-12, 15-21, 25-28 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,477,246 ("Dolan").

Regarding claims 1, 15 and 29

Dolan teaches facilitating mediated virtual communication, comprising:

- receiving, by a mediation system from a mediation subscriber communication device, a service selection, the service selection identifying a service selected by a mediation subscriber from a plurality of services displayed to the mediation subscriber by the mediation subscriber communication device (col. 3 lines 17-29, "The control panel of FIG. 2 ... record the audible signal", *Examiner interprets that the mediation system is Server 29 is receiving a selection of service from a user control panel*);
- determining, by the mediation system, a context associated with the service selection, the context comprising information regarding the availability of the mediation subscriber (col. 3 lines 55-64, "When an incoming call ... and over the internet"); and
- in response to determining the context associated with the service selection, determining, by the mediation system, a plurality of contextual arrangement options regarding the service selected by the mediation subscriber, at least one of the plurality of contextual arrangements options being determined based on the determined context associated with the service selection (col. 4 lines 17-46, "Referring now to FIG. 4, ... audible signal from the first entity").

Regarding claims 2 and 16

Art Unit: 2121

Dolan teaches transmitting the plurality of contextual arrangement options for reception by the mediation subscriber communication device (col. 3 lines 9-12, “The Server 29 and the Command Center 25 ... the appropriate device 23 or 24”).

Regarding claims 3 and 17

Dolan teaches receiving, by the mediation system from the mediation subscriber communication device, a selected one of the contextual arrangement actions (col. 6 lines 1-7, “The client or subscriber has ... or a cell phone 45”); and facilitating, by the mediation system and with a service management system, a mediated follow-through operation based at least partially on the selected one of the contextual arrangement actions for generating a mediated service commitment (col. 4 lines 9-16, “The server communicates ... with a telephone device”).

Regarding claims 4, 18 and 26

Dolan teaches updating a mediated commitment data set to include the mediated service commitment (col. 6 lines 20-22, “The central server 29 ... for treatment of incoming calls”, *Examiner interprets that the term “dynamic” profile is inherently includes updated profile information as described on col. 6 lines 22-41*).

Regarding claims 5, 19 and 27

Dolan teaches wherein facilitating the mediated follow-through operation includes: determining a plurality of service providers (col. 6 lines 1-11); transmitting the plurality of service providers for reception by the mediation subscriber communication device (col. 6 lines 11-19); and receiving, from the mediation subscriber communication device, a selected one of the plurality of service providers (col. 3 lines 9-12, “The Server 29 and the Command Center 25 ... the appropriate device 23 or 24”).

Art Unit: 2121

Regarding claims 6, 20 and 28

Dolan teaches wherein facilitating the mediated follow through operation includes: establishing a computer network connection between the mediation system and the service management system (col. 3 lines 21-23); and performing the mediated follow-through operation with the service management system via the computer network connection (col. 3 lines 49-54).

Regarding claims 7 and 21

Dolan teaches receiving, by the mediation system, confirmation information from the service management system after performing the mediated follow-through operation (col. 6 lines 20-41).

Regarding claims 11 and 25

Dolan teaches facilitating mediated virtual communication, comprising:

- receiving, by a mediation system from a mediation subscriber communication device, a service selection (col. 3 lines 17-29, “The control panel of FIG. 2 ... record the audible signal”, *Examiner interprets that the mediation system is Server 29 is receiving a selection of service from a user control panel*);
- determining, by the mediation system, a context associated with the service selection (col. 3 lines 55-64, “When an incoming call ... and over the internet”); and
- preparing, by the mediation system, a plurality of contextual arrangement options in response to determining the context (col. 4 lines 17-46, “Referring now to FIG. 4, ... audible signal from the first entity”);
- transmitting the plurality of contextual arrangement options for reception by the mediation subscriber communication device (col. 3 lines 9-12, “The Server 29 and the Command Center 25 ... the appropriate device 23 or 24”);

Art Unit: 2121

- receiving, by the mediation system from the mediation subscriber communication device, a selected one of the contextual arrangement actions prepared by the mediation system (col. 6 lines 1-7, “The client or subscriber has ... or a cell phone 45”);
- facilitating, by the mediation system and with a service management system, a mediated follow-through operation based at least partially on the selected one of the contextual arrangement actions for generating a mediated service commitment (col. 4 lines 9-16, “The server communicates ... with a telephone device”); and
- updating a mediated commitment data set to include the mediated service commitment (col. 6 lines 20-22, “The central server 29 ... for treatment of incoming calls”, *Examiner interprets that the term “dynamic” profile is inherently includes updated profile information as described on col. 6 lines 22-41*).

Regarding claim 12

Dolan teaches wherein facilitating the mediated follow-through operation includes: determining a plurality of service providers (col. 6 lines 1-11); transmitting the plurality of service providers for reception by the mediation subscriber communication device (col. 6 lines 11-19); receiving, from the mediation subscriber communication device, a selected one of the plurality of service providers (col. 3 lines 9-12, “The Server 29 and the Command Center 25 ... the appropriate device 23 or 24”); establishing a computer network connection between the mediation system and the service management system (col. 3 lines 21-23); and performing the mediated follow-through operation with the service management system via the computer network connection (col. 3 lines 49-54).

Regarding claim 30

Art Unit: 2121

Dolan teaches the mediation system includes a data packet client and a computer-telephone interface client (col. 2 lines 51-58); the data packet network includes a data packet server (col. 3 lines 9-12); and the voice network includes a computer-telephone interface client sever and an interactive voice response system connected to the computer-telephone interface (col. 3 lines 59-64).

Claim Rejections - 35 USC § 103

8. Claims 8-10, 13-14 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dolan in view of U.S. Patent No. 5,933,778 ("Buhrmann").

Regarding claims 8 and 22

Dolan does not teach updating a mediation subscriber profile to include said confirmation information. However, Buhrmann teaches updating a mediation subscriber profile to include said confirmation information (col. 10 lines 36-42) for the purpose of closely integrated the subscriber's scheduling and contact management mechanism (col. 4 lines 40-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate system of Buhrmann with the system of Dolan because it would provide for the purpose of closely integrated the subscriber's scheduling and contact management mechanism.

Regarding claims 9 and 23

Buhrmann teaches providing a confirmation including at least a portion of said confirmation information to the mediation subscriber (col. 10 lines 27-32).

Regarding claims 10 and 24

Art Unit: 2121

Buhrmann teaches updating the mediation subscriber profile includes updating at least one data set associated with the mediation subscriber profile (col. 10 lines 36-42).

Regarding claim 13

Dolan teaches receiving, by the mediation system, confirmation information from the service management system after performing the mediated follow-through operation (col. 6 lines 20-41) but does not teach updating a mediation subscriber profile to include said confirmation information; and providing a confirmation including at least a portion of said confirmation information to the mediation subscriber. However, Buhrmann teaches updating a mediation subscriber profile to include said confirmation information (col. 10 lines 36-42) and providing a confirmation including at least a portion of said confirmation information to the mediation subscriber (col. 10 lines 27-32) for the purpose of closely integrated the subscriber's scheduling and contact management mechanism (col. 4 lines 40-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate system of Buhrmann with the system of Dolan because it would provide for the purpose of closely integrated the subscriber's scheduling and contact management mechanism.

Regarding claim 14

Buhrmann teaches updating the mediation subscriber profile includes updating at least one data set associated with the mediation subscriber profile (col. 10 lines 36-42).

Response to Arguments

9. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 2121

Conclusion

Applicant's amendment and the submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 12/16/2004 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thomas Pham*; whose telephone number is (571) 272-3689, Monday to Thursday from 6:30 AM - 5:00 PM EST or contact Supervisor *Mr. Anthony Knight* at (571) 272-3687.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thomas Pham
Patent Examiner

TP

February 28, 2005



Anthony Knight
Supervisory Patent Examiner
Group 3600